

California Regional Water Quality Control Board
Santa Ana Region

July 1, 2003

ITEM: 16

SUBJECT: Status of Efforts to Require Suspected Dischargers to Investigate
Perchlorate Pollution in the Rialto, Colton and Chino Groundwater
Subbasins

DISCUSSION:

At the May 16, 2003 Board meeting, staff reported that, pursuant to Section 13267 of the California Water Code, the Executive Officer had issued a total of eleven Investigation Orders to suspected dischargers regarding the perchlorate pollution in the Rialto, Colton and Chino Groundwater Subbasins. On June 13, 2003, an additional Investigation Order was issued to Mr. Wong Chung Ming, resident of Hong Kong and owner of the Rialto property that is currently leased and occupied by American Promotional Events, Inc. – West and Pyro Spectaculars. Mr. Dennis Kwan, a local contact for Mr. Ming, called Board staff on June 16 to request a meeting to discuss preparing an investigation work plan.

Identified below is the status of the investigations for those suspected dischargers that have conducted activities since the last Board meeting:

County of San Bernardino

In 2002, the County completed preliminary groundwater investigations of their property. On November 15, 2002, an additional work plan was submitted. The Regional Board adopted Cleanup and Abatement Order (CAO) R8-2003-0013 on January 17, 2003, which, in part, required implementation of the work plan after it was approved by the Executive Officer. On January 31, 2003, the Executive Officer approved the work plan. In February 2003, the County submitted a petition to the State Board regarding the CAO, but stated they were supportive of the CAO and intended to comply with the CAO. On June 10, 2003, Board staff filed a response to the petition and submitted the administrative record to the State Board. The County is currently conducting the work required under the CAO, and is in compliance with the approved project schedule for this phase of their investigation. Installation of four additional monitoring wells has been completed. The County's consultants have incorporated the most recent well data into their conceptual model, and will submit their results in the final report, which is due in late July. Placement of soil borings is underway in the former pond areas at the Robertson's Ready Mix facility.

American Promotional Events, Inc. - West (APE)

APE submitted the report on their on-site soil investigation on April 14, 2003. Based on the results of their soil sampling and analysis, the Executive Officer issued a letter requiring additional investigation in one area of the APE site where perchlorate was detected at concentrations up to 2,900 micrograms/kilogram in the shallow soil. The work plan for the additional soil investigation is required to be submitted by July 11, 2003.

Goodrich Corporation

In June 2003, attorneys for the Goodrich Corporation provided documents to assist Board staff in issuing additional 13267 letters for suspected perchlorate dischargers in the Rialto, Colton and Chino Groundwater Subbasins. Board staff is currently reviewing this information. Goodrich has also offered to provide Board staff with assistance in conducting further research on additional suspected dischargers.

Pyro Spectaculars by Souza and Astro Pyrotechnics

On March 3, 2003, the Executive Officer conditionally approved two work plans for Pyro Spectaculars and Astro Pyrotechnics that had been submitted on December 9, 2002. An additional sampling proposal for Pyro Spectaculars, a waste containment plan for Astro Pyrotechnics, and a time schedule for the investigation at each site were to be submitted to the Executive Officer by March 19, 2003.

The attorney for Pyro Spectaculars submitted a revised time schedule for completion of these tasks. The proposed schedule was not satisfactory, so Board staff contacted Pyro Spectaculars to modify this schedule. It is our understanding that the access agreements for on-site and off-site work for the two fireworks facilities are now being negotiated. In June 2003, the Executive Officer required submittal of a work plan for the initial phase of work (at the off-site location of a former disposal pit) to be submitted in July 2003.

General Dynamics Corporation

The General Dynamics Corporation utilized storage magazines in North Rialto during the 1980s. On April 28, 2003, the Executive Officer issued a 13267 Investigation Order requiring that General Dynamics Corporation conduct a records investigation of their historical activities at the Rialto bunker site, and submit a report of this investigation by June 25, 2003.

Zambelli Fireworks

A work plan for a Phase 1 environmental assessment of Zambelli's former storage bunker area was submitted on June 16, 2003. Board staff is currently reviewing the work plan.

Emhart Industries, Inc./Black & Decker (former West Coast Loading Corporation/Kwikset)

A work plan, pursuant to a 13267 Order, for a perchlorate investigation at the former West Coast Loading Corporation (WCLC) facility was due on November 22, 2002. Emhart/Black & Decker submitted a Petition for Stay and for State Board Review of the 13267 Order. The Stay request was dismissed by the State Board. The Petition for State Board Review is still pending.

On May 6 and 7, 2003, Regional Board staff, U.S. EPA representatives and a representative from the Attorney General's office visited the offices of Allen Matkins, attorneys for Kwikset and Emhart/Black & Decker, to review the 58 boxes of WCLC and Kwikset Locks, Inc., documents in the custody of Allen Matkins. Board staff had been seeking access to the records since July 2002. As a result of this document review, Board staff obtained records that verify the corporate history and environmental liability of Emhart/Black & Decker, Inc., for the suspected discharges of perchlorate by WCLC. With a memo dated June 10, 2003, Board staff forwarded these new documents to the State Board for consideration in review of Emhart/Black & Decker's petition.

On April 11, 2002, Kwikset Corporation filed a Petition for Writ of Mandate in the Superior Court, Riverside County, seeking an order requiring the Regional Board to issue a written order finding Kwikset not to be the legal successor of WCLC and that WCLC did not discharge perchlorate. The Attorney General's office is representing the Regional Board in this matter. Board staff has prepared the administrative record. This record and the Regional Board's written response will be filed with the court on June 23, 2003.

At the May 16, 2003 Board meeting, the Regional Board adopted Resolution No. R8-2003-0070, regarding the Board's prior consideration and ruling on Cleanup and Abatement Order No. 2002-R8-0051. In adopting the Resolution, the Board denied Kwikset's request for a determination that Kwikset is not the legal successor to West Coast Loading Corporation, and that West Coast Loading Corporation did not discharge perchlorate at its Rialto site. Staff was directed to return to the Board with the results of its investigation once it is concluded, so that the Board may determine what further action may be appropriate.

At the July 1, 2003 Board meeting, staff will provide information on any further developments, and will continue to update the Board at future meetings on the progress of the perchlorate investigation efforts.